

REMARKS/ARGUMENTS

Claims 1-13 are pending in the present application.

This Amendment is in response to the Office Action mailed January 5, 2009. In the Office Action, the Examiner rejected claims 1-2, 5-8, and 11-12 under 35 U.S.C. §112, first paragraph and claims 1-2, 5-8, and 11-13 under 35 U.S.C. §103(a). Reconsideration in light of the amendments and remarks made herein is respectfully requested.

Rejection Under 35 U.S.C. § 112

In the Office Action, the Examiner rejected claims 1 and 7 and claims dependent thereon under 35 U.S.C. §112, first paragraph, as failing to comply with the written description requirement. The Examiner indicates that the Specification recites in paragraph 29 that the contents are deleted from the transmitter *not the receiver*.

Applicant respectfully submits that the claims recite: “wherein the use control metadata include the CCI, the BF and the RI, ... indicates in the RI a length of time that the broadcasting content can remain stored in a hard disk of a receiver.” Moreover, the specification presently recites:

“The CCI, BF and RI information are used for controlling the storage and playback of broadcasting contents in a receiver. The CCI has four states: "free copy," "one copy," "no more copy," and "never copy." When a broadcasting content is transmitted from a transmitter, one of the four states is selected.

The BF is an identifier that tells a content is a broadcasting content. The BF is used to restrict the use of a broadcast content for the other purposes except broadcasting. The RI indicates how long the content can be retained in a hard disk of the receiver. Once the retention time determine in the transmitter is passed, the stored contents is deleted out of the transmitter automatically.” (Specification, paragraphs [0028]-[0029]) *Emphasis Added.*

Accordingly, Applicant respectfully submits that there is sufficient disclosure in the Specification to support the claim language.

Please not that, in order to clarify any ambiguity, Applicant amended the specification to correct the minor inconsistencies. Thus, the amended specification, paragraph 29 recites:

“The BF is an identifier that tells a content is a broadcasting content. The BF is used to restrict the use of a broadcast content for the other purposes except broadcasting. The RI indicates how long the content can be retained in a hard disk of the receiver. Once the retention time ~~determine in the transmitter~~ is passed, the stored contents is deleted out of the ~~transmitter~~ receiver automatically.” (Specification, paragraph [0029])

Additionally, the Examiner states the language ““use control metadata includes RI” does not preclude RI from being metadata but includes it (by its very nature)” (Office Action, page 7). Applicant respectfully submits that the Examiner misconstrues the claim language and Applicant’s arguments previously presented and further delineated herein. The argument as set forth below is that the elements in Wasilewski and Boston are not equivalent to RI because the cited references do not disclose the claim element “indicates in the RI a length of time that the broadcasting content can remain stored in a hard disk of a receiver”.

Thus, we believe the rejection under §112 should be withdrawn.

Rejection Under 35 U.S.C. § 103

In the Office Action, the Examiner rejected claims 1-2, 5-8, and 11-13 under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 6,157,719 issued to Wasilewski et al. (“Wasilewski”) in view of U.S. Patent No. 6,981,272 issued to Morinaga et al. (“Morinaga”) in view of U.S. Patent No. 7,248,776 issued to Boston et al. (“Boston”). Applicant respectfully traverses the rejection and submits that the Examiner has not met the burden of establishing a *prima facie* case of obviousness.

To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. *MPEP* §2143, p. 2100-126 to 2100-130 (8th Ed., Rev. 5, August 2006). Applicant respectfully submits that there is no suggestion or motivation to combine their teachings, and thus no *prima facie* case of obviousness has been established.

Furthermore, the Supreme Court in *Graham v. John Deere*, 383 U.S. 1, 148 USPQ 459 (1966), stated: “Under § 103, the scope and content of the prior art are to be determined;

differences between the prior art and the claims at issue are to be ascertained; and the level of ordinary skill in the pertinent art resolved. Against this background, the obviousness or nonobviousness of the subject matter is determined.” MPEP 2141. In *KSR International Co. vs. Teleflex, Inc.*, 127 S.Ct. 1727 (2007) (Kennedy, J.), the Court explained that “[o]ften, it will be necessary for a court to look to interrelated teachings of multiple patents; the effects of demands known to the design community or present in the marketplace; and the background knowledge possessed by a person having ordinary skill in the art, all in order to determine whether there was an apparent reason to combine the known elements in the fashion claimed by the patent at issue.” The Court further required that an explicit analysis for this reason must be made. “[R]ejections on obviousness grounds cannot be sustained by mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness.” *KSR* 127 S.Ct. at 1741, quoting *In re Kahn*, 441 F.3d 977, 988 (Fed. Cir. 2006). In the instant case, Applicant respectfully submits that there are significant differences between the cited references and the claimed invention and there is no apparent reason to combine the known elements in the manner as claimed, and thus no *prima facie* case of obviousness has been established.

Wasilewski, Morinaga, and Boston, alone or in combination, do not disclose: “wherein the content ID is abstracted and used for determining whether a content is an unlawful broadcasting content when the broadcasting content is distributed unlawfully, or the content ID is abstracted and used for determining whether a content that are broadcasted currently is authentic or not after monitoring”, as recited in claims 1, 7, and 13.

In the Office Action, the Examiner alleges that on a broad read Wasilewski does show use control data including CCI, BF, and RI (Wasilewski, col. 31, lines 13-30). Applicant respectfully submits that that cited portion of Wasilewski merely recites: “NVSC 1701 used to store entitlement information for events... Flag Fields 1705 include flags that indicate ... (3) whether the entitlement agent has confirmed purchase of the event, ... (7) whether the right to copy the event has been purchased, and (8) whether the event is an analog or digital service” (Wasilewski, col. 31, lines 12-25; Figure 17).

In the Office Action, the Examiner alleges that the content ID which “is abstracted and used for determining whether a content is an unlawful broadcasting content when the

broadcasting content is distributed unlawfully”, or the content ID which “is abstracted and used for determining whether a content that are broadcasted currently is authentic or not after monitoring”, as recited in claims 1, 7, and 13 is allegedly equivalent to the event descriptors 1703 which contain the flag fields 1705 discussed above (Office Action, page 9). Since none of the flags pertain to unlawful broadcasting or broadcasting that is authentic, Wasilewski does not disclose the elements recited in claims 3 and 7 as alleged by the Examiner.

The Examiner further alleges that Wasilewski discloses this element citing column 30, line 58 to column 31, line 10. Applicant respectfully disagrees and submits that this cited portion merely recites:

“In the case of pay-per-view events, the customer orders the event from the entitlement agent, and the agent responds by sending an EMM that contains the necessary entitlement information. In the case of events where the customer decides at broadcast time that he or she wants to purchase the event, purchase information, i.e., information about the entitlements that can be purchased, must be distributed with the event. In these cases, the purchase information is distributed by means of global broadcast authenticated messages, or GBAMs. The customer provides input 628 that specifies a purchase. The DHCT 333 responds to the input 628 by storing the record of purchase in the DHCTSE 627 and then beginning to decrypt the event. Later, the DHCT 333 sends the entitlement agent a forwarded purchase message (FPM) indicating what has been purchased by the customer, and the entitlement authority responds with an EMM that confirms the purchase and contains the necessary entitlement information. The record of the purchase remains until an EMM confirming the purchase is received by the DHCTSE 627. (Wasilewski, col. 30, line 58 to col. 31, line 10).

Accordingly, upon purchase, the EMM is sent and contains necessary entitlement information. However, none of the flags pertain to unlawful broadcasting or broadcasting that is authentic, Wasilewski does not disclose the elements recited in the claims as alleged by the Examiner.

In addition, Wasilewski, Morinaga, and Boston, alone or in combination, fail to disclose “(1) a watermarking means for receiving an identification of a broadcasting content, which is referred to as a content ID, and the use control metadata, and watermarking an audio/video (A/V) media signal by using the content ID and the use control metadata as watermarks; (2) a media encoding means for compressing the watermarked A/V media signal; (3) an encrypting means for encrypting the compressed A/V media signal; (4) a multiplexing means for receiving and multiplexing the compressed and encrypted A/V media signal to thereby output a media transport stream”, as recited in claims 1, 7, and 13.

Wasilewski merely discloses a program 709 being information to produce picture and sound (Wasilewski, col. 18, lines 42-45). The Examiner alleges that the A/V media signal corresponds to the program 709 and the watermarking means is equivalent to encoding a packet identifier (Office Action, page 8). Applicant respectfully disagrees and submits that the claims recite “a watermarking means for receiving an identification of a broadcasting content, which is referred to as a content ID, and the use control metadata, and watermarking an audio/video (A/V) media signal by using the content ID and the use control metadata as watermarks”. *Emphasis Added.* As discussed above, the Examiner alleges that the use control metadata corresponds to the flags in flag fields 1705. Given that there is no teaching or suggestion of watermarking program 709, allegedly an audio/video (A/V) media signal, by using the flags in 1705 as watermarks, the Wasilewski fails to teach watermarking an audio/video (A/V) media signal as delineated in the claims.

Additionally, the Examiner alleges that element 704 in Figure 7 and/or element 327 in Figure 4 discloses both the media encoding means for compressing the watermarked A/V media signal and the encrypting means for encrypting the compressed A/V media signal as recited in the claims. First, we respectfully submit that Wasilewski does not disclose an element 327 in Figure 4 or anywhere in the Wasilewski. Second, element 704 is a multiplexer that receives as an input, among other things, the program 709 (Wasilewski, Figure 7). The mux 704 cannot be both the media encoding means and the encrypting means. Third, since there is no teaching of the program 709 being watermarked as discussed above, Wasilewski fails to disclose the watermarked A/V media signal. Accordingly, the mux 704 cannot compress the watermarked

A/V media signal or encrypt the compressed A/V media signal as delineated in the claims.

Moreover, there is no teaching or suggestion that the mux 704 compresses signals.

Furthermore, the Examiner alleges that the element 701 corresponds to a multiplexing means for receiving and multiplexing the compressed and encrypted A/V media signal to thereby output a media transport stream, as recited in the claims. Applicant respectfully disagrees and submits that element 701 is an MPEG-2 transport stream 701 (Wasilewski, col. 18, lines 36-38; Figure 7). Applicant respectfully submits that the transport stream 701 is made up of a sequence of 188-byte long transport packets 703 (Wasilewski, col. 18, lines 36-39; Figure 7) and thus, a transport stream cannot be a multiplexer.

Based on the dependency of claims 2, 5, 6, 8, 11, and 12 on independent claims 1 and 7 believed to be in condition for allowance, no further discussion as to the grounds for traverse is warranted.

Therefore, Applicant believes that independent claims 1, 7, and 13 and their respective dependent claims are distinguishable over the cited prior art references. Accordingly, Applicant respectfully requests the rejection under 35 U.S.C. §103(a) be withdrawn.

Conclusion

Applicant respectfully requests that a timely Notice of Allowance be issued in this case.

Respectfully submitted,

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